



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/158434

PRELIMINARY RECITALS

Pursuant to a petition filed June 17, 2014, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on August 05, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly denied the petitioner's BadgerCare (BC) Plus application due to excess income.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

I

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703
By: Pang Thae-Xiang
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner's household size is 1 as she is the only person in her household.

3. Petitioner applied for BC Plus benefits on April 3, 2014. The agency processed her application on April 8, 2014. The agency then sent out verification forms to verify income. The due date for the verification was May 5, 2014.
4. On May 5, 2014 the agency did not believe that they had received verification of Petitioner's income and on May 6, 2014 sent a notice to Petitioner stating that she was denied BC Plus because she had failed to verify her income.
5. The agency later learned that they had received income verification from Petitioner on May 5, 2014, the due date for her income verification.
6. Petitioner's income at the time of application was \$1069.44. This income was from her employment at [REDACTED] and the [REDACTED]. She worked 16 hours per bi-weekly pay period at [REDACTED]. Her rate of pay at [REDACTED] was \$11 per hour giving her a monthly gross income of \$352 from [REDACTED]. She worked 22 per week making \$8.13 per hour at the [REDACTED]. This gave her a monthly gross income of \$715.44 from the [REDACTED].
7. The agency denied Petitioner's application for BC Plus because she was over the program income limit and sent Petitioner a new denial notice.
8. Petitioner filed a request for fair hearing received by the Division of Hearings and Appeals on May 23, 2014.

DISCUSSION

BadgerCare Plus is a Wisconsin variant of the MA program, for non-elderly, non-disabled Wisconsin residents. The program's nonfinancial eligibility standards were broadened effective April 1, 2014, to include adults who do not have minor children in their home. Wis. Stat. § 49.45(23); 2013 Wisconsin Act 116, § 29, for effective date; *BadgerCare Plus Eligibility Handbook (BCPEH)*, § 2.1, at <http://www.emhandbooks.wisconsin.gov/bcplus/bcplus.htm> (viewed in March 2014). The petitioner meets the nonfinancial eligibility tests for the program.

Petitioner must also pass an income test. An eligible applicant cannot have adjusted gross income exceeding 100% of the federal poverty level (FPL). Wis. Stat. § 49.45(23)(a); *BCPEH*, § 16.1. The 100% FPL amount is \$972.50 monthly for a household of one, and \$1,310.83 for a household of two persons in 2014. *Id.*, § 50.1.

In this case Petitioner argues that her hours at [REDACTED] were irregular. The employment verification form supports this argument in part as it states that her hours are irregularly scheduled hours dependent upon audience demand. However, the employment verification form also states that best estimate of Petitioner's weekly hours was eight. This is supported by her paycheck from [REDACTED] showing that for the bi-weekly pay period from April 14, 2014 through April 27, 2014 Petitioner worked 16 hours or 8 hours per week. When determining eligibility the agency must rely on the credible information provided by Petitioner and through the verification sources. In this case that information was that Petitioner was over the BC Plus income limits at the time of her application. Petitioner did not directly dispute that she was over the BC Plus income limits in April 2014.

Petitioner's main concern was that as of the date of the hearing she was no longer at any employment. She was no longer working for [REDACTED] and her temporary job at the [REDACTED] had ended. Petitioner can reapply for BC Plus coverage at any time. Petitioner thought that the fair hearing would address her change in circumstances. However, the limited issue of the fair hearing was to determine whether the agency's denial of her BC Plus application that she made in April 2014 was correct. Petitioner is always welcome to reapply for benefits and likely has already reapplied.

CONCLUSIONS OF LAW

The Petitioner's household income exceeded the BC Plus program limits at the time of her application, and therefore the agency properly denied that application for the BC Plus program.

THEREFORE, it is

ORDERED

That this petition is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 13th day of August, 2014

\sCorinne Balter
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on August 13, 2014.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability